IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 69 OF 2004

IN

SUMMARY SUIT NO. 3217 OF 2003

IAL Container Lines(UK) Ltd & ors. .. Plaintiffs

versus

Prime Intermodal Services Pvt.Ltd. .. Defendant

...

Mrs.Bharati Narichania i/b Vibha Juris Consult for the plaintiff.

Mr.N.K. Jain i/b S.K. Jain for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 28th February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff and defendant. The learned counsel for the defendant admits that the Summons for Judgement was served on the defendant on 4th February 2004.

2. Despite passage of one year, no application has been made for leave to defend nor has the defendant filed an affidavit in reply. In the

circumstances, the averments made in the plaint are deemed to be admitted. The plaintiff is entitled to a decree under Order 37 Rule 3(6)(a) of the Code of Civil Procedure.

3. I have perused the plaint, The defendant had issued three cheques (Exhibit-B1, B-2 and B-3) for the payment of the dues. By a letter dated 30th April 2003, the defendant had admitted the liability to make the payment. Hence, I am satisfied that the decree needs to be passed against the defendant.

4. The learned counsel for the plaintiff undertakes to file the original documents within a period of two weeks. Undertaking is recorded and accepted. Decree shall not be drawn until the original documents are filed.

5. For the reasons mentioned above, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:-

6. The defendant shall pay to the plaintiff a sum of Rs.1,17,660/- together with interest therein at 9% p.a. from the date of the suit till payment and all costs of the suit.

D.G. KARNIK, J